

REMARKS/ARGUMENTS

The applicant has studied the office action mailed October 2, 2008, and has made the changes believed appropriate to place the application in condition for allowance.

Reconsideration and reexamination are respectfully requested.

Although Applicant amended and cancelled claims and amended the specification, Applicant is not conceding in this application that claims or specification in their pre-amended form are invalid, as the present amendments and cancellations are for facilitating expeditious prosecution. Applicant respectfully reserves the right to pursue these and other claims in this present application and one or more continuations and/or divisional patent applications.

Claims 17-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. This rejection is respectfully traversed.

The Examiner has objected to the specification defining "article of manufacture" as including non-statutory media such as transmission media (Specification, paragraph 0026 page 12) which is said to be incapable of being touched or perceived absent the statutory medium through which they are conveyed. The specification has been amended to delete the objected to definition of article of manufacture. It is therefore respectfully submitted that the rejection of the claims under 35 U.S.C. 101 should be withdrawn.

Claims 1-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Jacobson U.S. Patent No. 7,386,619. This rejection is respectfully traversed.

For example, claim 1 is directed to a "method of executing tasks in a multi-processor system, comprising: executing a device driver to select a processor to execute an interrupt handler task wherein said device driver executing includes a first monitoring of usage of a plurality of processors in said system and selecting, as a function of said first monitoring, a processor as the currently selected processor to execute an interrupt handler task; and executing an operating system scheduler to assign an interrupt handler task to said processor selected by said device driver."

It is the Examiner's position that the Jacobson reference "teaches said device driver executing includes a first monitoring of usage of a plurality of processors in said system and selecting, as a function of said first monitoring, a processor as the currently selected processor to execute an interrupt handler task" citing lines 31-52, column 4 of the Jacobson reference. The applicant respectfully disagrees.

On the contrary, it is respectfully submitted that the Examiner's citations describe a method in which various rules or tables are used to select a processor. For example, the Jacobson reference discusses using an address or index of a buffer (col. 4, lines 4 et seq.), the least significant bit of a destination IP address (col. 4, lines 15 et seq.), or exclusive-OR of a result (col. 4, lines 45 et seq.). It is respectfully submitted that the Examiner has cited no teaching or suggestion in the Jacobson reference of "executing a device driver to select a processor to execute an interrupt handler task wherein said device driver executing includes a first monitoring of usage of a plurality of processors in said system and selecting, as a function of said first monitoring, a processor as the currently selected processor to execute an interrupt handler task" as required by claim 1.

Independent claims 9 and 17 may be distinguished in a similar fashion. The rejection of the dependent claims is improper for the reasons given above. Moreover, the dependent claims include additional limitations, which in combination with the base and intervening claims from which they depend provide still further grounds of patentability over the cited art.

The Examiner has made various comments concerning the anticipation or obviousness of certain features of the present inventions. Applicant respectfully disagrees. Applicant has addressed those comments directly hereinabove or the Examiner's comments are deemed moot in view of the above response.

Conclusion

For all the above reasons, Applicant submits that the pending claims are patentable. Should any additional fees be required beyond those paid, please charge Deposit Account No. 50-4238.

The attorney of record invites the Examiner to contact him at (310) 553-7970 if the Examiner believes such contact would advance the prosecution of the case.

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